

EXHIBIT E

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 BROADWAY EQUITY HOLDINGS, LLC,

Chapter 11
Case No.
17-22242 (RDD)

Debtor.

7 -----X
8 BROADWAY EQUITY HOLDINGS, LLC,

PLAINTIFF,

Adversary
Case No.
17-8215 (RDD)

11 -against-

12 152 BROADWAY HAVERSTRAW NY, LLC, BLUE
13 BEVERAGE GROUP, INC., JOSEPH GOLDBERGER,
14 TOBY WEINBERGER, MFT HOLDINGS, LLC, ESTATE
15 OF JENO GUTTMAN, RYVKIE GOLDBERGER, LAND
16 TRACK TITLE AGENCY, LLC, VILLAGE OF
17 HAVERSTRAW RECEIVER OF TAXES, COMMISSIONER
18 OF FINANCE OF THE COUNTY OF ROCKLAND, NEW
19 YORK STATE DEPARTMENT OF TAXATION AND
20 FINANCE, "JOHN DOE NO. 1" through "JOHN DOE
21 NO 10", and said names being fictitious, it
22 being the intention of Plaintiff to
23 designate all persons, partnerships,
24 corporations, or other entities in
25 possession of the premises, as tenant or
otherwise any/or all persons or entities
having or claiming an interest in said
premises,

DEFENDANTS.

-----X
(Caption continues)

DATE: May 7, 2018
TIME: 10:28 A.M.

(DEPOSITION of JUDY MINSTER)

1 J. MINSTER

2 payment demand.

3 Every note is different. If
4 there is nothing to settle, we will start
5 foreclosure. Every note is different.

6 Q. My question was more specific,
7 what have you done to service this note?

8 MR. RUBIN: Objection to form.

9 A. To service this note I was
10 involved in sending a letter for payment
11 through our attorney, and no payments were
12 made on this loan to date, and I was
13 involved with speaking with counsel, we
14 were going to pursue a foreclosure case.

15 We started a foreclosure case
16 and they defaulted on the loan, we filed
17 for bankruptcy. I keep records of
18 documents.

19 Q. When Mr. Wertzberger asked you
20 about servicing this loan, did he give you
21 any documents?

22 A. Yes, he came to me with
23 whatever documents he had at the time.

24 Q. Do you know what those
25 documents were?

1 J. MINSTER

2 A. He gave me the operating
3 agreement, the note, some other papers, I
4 don't remember what. He gave me a folder
5 and I put it together with all the other
6 original notes and notes we have.

7 Q. Where did you put it?

8 A. In my desk.

9 Q. Where is that?

10 A. 11 Ocean Parkway. At the time
11 it wasn't, but that's where it is now.

12 Q. Where was it at the time?

13 MR. RUBIN: Objection to form.

14 A. My office on 38th Street.

15 Q. Do you know if he gave you the
16 original operating agreement?

17 MR. RUBIN: Objection to form.

18 A. I believe so.

19 Q. Do you know if he gave you the
20 original note?

21 A. Just to put context to your
22 answer, I don't recall looking through the
23 documents to see what was original or what
24 wasn't, but when I was preparing for this
25 case I did see the original operating

1 J. MINSTER

2 agreement and original signature in my
3 file, so that's how I knew I had it at the
4 time.

5 I looked through so many
6 packages, I don't remember if it was
7 original or not, but the operating
8 agreement I saw recently so I knew it would
9 make sense to me that I got the original at
10 the time.

11 Q. But you are not sure if you got
12 the original note?

13 A. I didn't say not sure, I said I
14 don't remember. Wells Fargo would send me
15 a package, I would file it. I don't look
16 at each signature and remember, but being
17 that I prepared for this deposition today,
18 I did review the files and I saw the
19 operating agreement, so I was able to
20 answer yes, I saw it today.

21 I didn't see the original note
22 when I did my reviews, so I don't remember
23 if it was the original or if it wasn't. I
24 have no reason to believe it wasn't the
25 original. He gave me whatever I had and I

1 J. MINSTER

2 had reason to believe it was the original,
3 but I don't recall if I saw it at the time
4 four years ago. I would have filed it in
5 the normal course of business, and that's
6 my answer.

7 Q. How about the original
8 mortgage, did he give that to you?

9 A. I believe the original mortgage
10 was being held by Mark Kranz, who arranged
11 for recording of the mortgage. I don't
12 remember, but in my original files I didn't
13 have the mortgage.

14 Q. What do you have in your file?

15 MR. RUBIN: Objection to form.

16 A. I answered it when you asked me
17 how I prepared for the deposition and which
18 files I looked at. I told you I saw the
19 341 notice, the affidavits I signed. I
20 think I have copies of some of the wires.
21 I don't really remember.

22 I have all the bank statements.
23 I have the invoices for the debtors that we
24 owe money. I have some assignments. There
25 may be more. I don't remember. That's the

1 J. MINSTER

2 gist of it.

3 Q. Do you recall ever seeing the
4 original note in your possession?

5 MR. RUBIN: Objection, asked
6 and answered.

7 A. I answered that in length, so
8 you could reread my answer.

9 Q. Could you answer my question?

10 A. You could read it back. It is
11 the same answer. Nothing changed. You
12 could read my answer when he asked me the
13 same question, I would like to answer it
14 the same way again.

15 Q. I didn't ask you the same
16 question.

17 MR. RUBIN: Do it again for him
18 for the best of your recollection.

19 A. I was given a package by Joel
20 with a note and operating agreement and
21 assignments. And when he approached me if
22 I wanted to be managing member and service
23 this note, and at the time I don't remember
24 looking through the file to see if it was
25 an original operating agreement, original

1 J. MINSTER

2 note, original assignments. I don't
3 recall. I got the package, normal course
4 of business, I had no reason to believe it
5 wasn't the original.

6 And review from my deposition
7 today, the way I could answer definitively
8 that it was the original operating
9 agreement was because I actually saw it
10 between the past 15 to 20 days and I didn't
11 see the original note, so I don't remember
12 in September of 2014 when I was approached
13 by Joel and given the file if it was the
14 original, if it was not, the same way I
15 wouldn't remember if it was the original
16 operating agreement or not. I have no way
17 to remember such details going back four
18 years at the time.

19 Q. So, my question was a little
20 different.

21 I understand you don't recall
22 when you were given the original file,
23 whether you were given the original or not,
24 I understand that.

25 I'm asking you if any time

1 J. MINSTER

2 subsequent to being given the original
3 file, have you ever seen the original note?

4 A. I may have seen it in 2014 when
5 it was given to me, but I don't remember.

6 Q. Other than that, have you seen
7 it since then?

8 MR. RUBIN: Objection, asked
9 and answered.

10 A. I may have. I may have looked
11 to the file. I don't remember. The same
12 way I would have pulled out any one of the
13 60 files. I don't remember. It is not
14 something that my brain has the capacity to
15 remember. Sorry.

16 MR. FLEISCHMANN: Let's mark
17 this.

18 (Whereupon, document was marked
19 as Minster Exhibit 1 for
20 identification.)

21 Q. Could you just look at the
22 document and let me know when you are
23 ready.

24 A. You want me to read the whole
25 document? I'm ready.

1 J. MINSTER

2 Q. Could you look at page 17?

3 A. Okay.

4 Q. You see there is a signature
5 box that says Judy Minster, is that your
6 signature?

7 A. Yes.

8 Q. Did you review the responses in
9 this document prior to signing this?

10 A. Yes.

11 Q. Could you look at number ten on
12 page 13?

13 A. Yes.

14 Q. This is a question about who is
15 responsible for preserving documents, among
16 other things.

17 Do you see the answer?

18 I will read the last line,

19 "Further, as plaintiff's attorney in
20 connection with a note of mortgage, Mark
21 Kranz is responsible for maintaining and
22 preserving documents and records concerning
23 the note and mortgage."

24 Is that an accurate statement?

25 A. I don't know what context you

1 J. MINSTER

2 are reading in. Read the whole thing.

3 Q. Read it to yourself and tell me
4 if it is an accurate statement.

5 A. "Plaintiff objects to
6 interrogatory number ten on the ground that
7 it is vague and ambiguous. Subject to and
8 without waiving the foregoing objections,
9 plaintiff states that as its managing
10 member, Judy Minster is responsible for
11 maintaining and preserving documents and
12 records on behalf of the plaintiff.

13 "Further, as plaintiff's
14 attorney in connection with a note and
15 mortgage, Mark Kranz is responsible for
16 maintaining and preserving documents and
17 records containing the note and mortgage."

18 What is your question?

19 Q. Is that an accurate response?

20 MR. RUBIN: Objection. You are
21 asking for a legal conclusion.

22 MR. FLEISCHMANN: I object to
23 your objection as coaching your
24 witness.

25 MR. RUBIN: You read a

1 J. MINSTER

2 document, it incorporated prior
3 objections, it is a legal document,
4 it is a proper objection.

5 MR. FLEISCHMANN: Please stop
6 making speaking objections.

7 A. Could I see the interrogatory
8 number ten that I could say because I don't
9 remember the interrogatory by heart.

10 Q. Right above it.

11 A. My knowledge from me reading
12 this, it says I'm responsible and the
13 attorney is responsible for keeping
14 documents. I don't know what to answer
15 you.

16 Q. Take whatever time you need to
17 answer the question.

18 MR. RUBIN: She answered the
19 question.

20 A. I wouldn't know what to answer.
21 This was prepared by counsel and I don't
22 have an answer for you on this question.

23 Q. To your knowledge, is Mr. Kranz
24 responsible for maintaining and preserving
25 documents concerning the note and mortgage?

1 J. MINSTER

2 MR. RUBIN: Objection, calls
3 for legal conclusion.

4 You may answer.

5 A. I can't answer.

6 Q. You have no knowledge one way
7 or the other?

8 MR. RUBIN: Objection, asked
9 and answered.

10 MR. FLEISCHMANN: She did not
11 answer the question once.

12 MR. RUBIN: You are asking for
13 a legal conclusion, you are asking
14 the wrong witness.

15 A. I can't answer the question.

16 Q. Could you look at page 17
17 again?

18 A. Yes.

19 Q. Do you see right above your
20 signature block it says as factual content?

21 A. Yes.

22 Q. What does that mean?

23 A. That I'm signing as to the
24 factual content, as to whatever is a fact
25 here.

1 J. MINSTER

2 Q. Now I'm asking a different
3 question.

4 A. That's what I assume it means.

5 Q. Who is responsible for
6 maintaining and preserving documents and
7 records containing the note and mortgage?

8 MR. RUBIN: Objection, asked
9 and answered and calls for legal
10 conclusion.

11 A. I answered you earlier that I
12 was given the file, and you asked me about
13 the mortgage and I told you it was sent for
14 recording, and Mark Kranz was handling
15 that, as far as I remember.

16 You asked me regarding the note
17 and I answered, you asked me regarding the
18 document and I told you all the documents I
19 may have, and now you are asking documents
20 I keep record of, all those that I
21 mentioned in the past.

22 MR. FLEISCHMANN: That wasn't
23 my question.

24 Could you read my question
25 back.

1 J. MINSTER

2 (Whereupon, the requested
3 portion was read back by the
4 reporter.)

5 MR. RUBIN: Objection, asked
6 and answered.

7 Go ahead.

8 And calls for legal conclusion.

9 Go ahead.

10 A. I listed the documents that I
11 held as managing member of Broadway Equity
12 Holdings, LLC and the documents I have in
13 possession. I don't understand the
14 question. I'm sorry. We could move on or
15 you could ask it again.

16 MR. FLEISCHMANN: Could you
17 read the question back.

18 MR. RUBIN: We did that
19 already.

20 (Whereupon, the requested
21 portion was read back by the
22 reporter.)

23 MR. RUBIN: Objection, asked
24 and answered.

25 Objection to the form of the

1 J. MINSTER

2 question, calls for legal conclusion.

3 A. I don't know. I told you all
4 the documents I have. I don't know what
5 you are trying to ask.

6 Q. Were you present when the note
7 and mortgage was allegedly signed?

8 MR. RUBIN: Objection to form.

9 A. No, I was not.

10 Q. Do you know who was?

11 MR. RUBIN: Objection to form.

12 A. No.

13 Q. Were you a party to the
14 negotiations that led up to the alleged
15 signing of the note of mortgage?

16 MR. RUBIN: Objection to the
17 form of the question.

18 A. No.

19 Q. Were you present when the note
20 and mortgage was notarized?

21 MR. RUBIN: Objection.

22 A. No.

23 Q. Do you know who notarized the
24 note and mortgage?

25 MR. RUBIN: Objection.

1 J. MINSTER

2 C E R T I F I C A T E

3
4 STATE OF NEW YORK)
5 : SS.:
6 COUNTY OF KINGS)

7 I, SARAH FRIEDMAN (Pages 1-109, 172),
8 a Notary Public for and within the State of
9 New York, do hereby certify:

10 That the witness whose examination is
11 hereinbefore set forth was duly sworn and
12 that such examination is a true record of
13 the testimony given by that witness.

14 I further certify that I am not
15 related to any of the parties to this
16 action by blood or by marriage and that I
17 am in no way interested in the outcome of
18 this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 16th day of May 2018.

21
22 

23 _____
24 SARAH FRIEDMAN
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J. MINSTER

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF KINGS)

I, KAREN R. ANIBOLI-KOPANYI (Pages
109-171, 173), a Notary Public for and
within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 16th day of May 2018.



KAREN R. ANIBOLI-KOPANYI